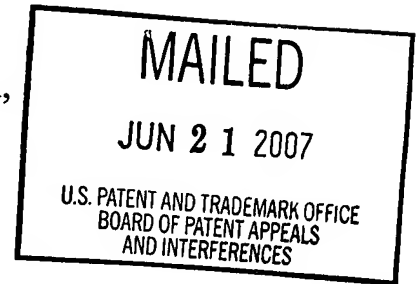


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KISHORE C. ACHARYA,
DARIN R. OKERLUND,
STEVEN J. WOLOSCHKE and
MARK E. WOODFORD



Application 10/063,840

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on January 17, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner. The matters requiring attention prior to docketing are identified below:

The Examiner's Answer mailed May 5, 2006 does not list the Evidence Relied Upon in the rejections of the appealed claims. On page 2 of the Examiner's Answer beneath the heading **(8) Evidence Relied Upon** the examiner states "[n]o evidence is relied upon by the Examiner in the rejection of the claims under appeal."

The Examiner is directed to the Manual Of Patent Examining Procedure (MPEP) § 1207.02(A) (8th ed., Rev. 5, August 2006) which states in part:

(A) CONTENT REQUIREMENTS FOR EXAMINER'S ANSWER. The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

...

(8) *Evidence Relied Upon*. A listing of the evidence relied on (e, g., patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

Since the Examiner's 35 U.S.C. § 102(b) rejection is based on a prior art references, (U.S. Patents) these references and any other evidence relied upon should be listed under the "(8) Evidence Relied Upon" heading in the Examiner's Answer.


Before further review, the examiner must mail a PTOL-90 that will include in the amended Evidence Relied Upon section, the references mentioned in the statement of rejections. See the Manual of Patent Examining Procedure, (MPEP) § 1207.02. Appropriate correction is required.

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Accordingly, it is ORDERED that the application is returned
to the Examiner to:

- 1) issue and mail a PTOL-90 listing the missing references under the
Evidence Relied Upon section, heading (8) of the Examiner's Answer and
- 2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 
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